

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:
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E. Stephen Crandall	: Attorney Ref.: 1999-0735CIP
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Serial No.: 09/775,585	: Confirmation No.: 9273
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Filed: February 5, 2001	: Art Unit: 2141
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FOR: PSEUDO-LIVE PERFORMANCE	: Examiner: Kristie D. Shingles
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	:

AMENDMENT

MAIL STOP: RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Final Office Action dated December 2, 2005, kindly enter the following Amendment to the claims and consider the following Remarks, prosecution on the merits having been reopened by the concurrent filing of a RCE.

Amendment to the Claims begin on page 2 of this paper.

Remarks begin on page 8 of this paper.

Amendment to the Claims

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Currently Amended) A method for receiving performance information over a network for generating a pseudo-live performance, the method comprising:
 - detecting a need for the performance information by determining that stored performance information is out-of-date;
 - selecting a process for obtaining the needed performance information;
 - executing the process for obtaining the needed performance information; and
 - generating the pseudo-live performance by mixing information corresponding to one or more portions of the needed performance information with other information, wherein
selecting a process for obtaining the needed performance information further comprises:
 - determining whether a performance transmitter is of a type that is capable of receiving and responding to an information request, or is of a type that is not capable of receiving and responding to an information request.
2. (Canceled)
3. (Currently Amended) The method of claim 1, further comprising:
 - accessing a profile, wherein the profile indicates one or more of:
 - a type of information desired by an end-user;
 - a schedule of an end-user; and
 - scheduled times at which information is transmitted by [[a]] the performance transmitter.

4. (Canceled)

5. (Currently Amended) The method of claim [[4]] 1, wherein the ~~determining whether a performance transmitter can receive an information request~~ determining whether a performance transmitter is of a type that is capable of receiving and responding to an information request, or is of a type that is not capable of receiving and responding to an information request comprises one or more of:

- transmitting a query signal to the performance transmitter;
- passively receiving a signal from the performance transmitter; and
- accessing a profile.

6. (Currently Amended) The method of claim [[4]] 1, further comprising:

- generating an information request; and
- transmitting the request to the performance transmitter via the network.

7. (Currently Amended) The method of claim 1, wherein the selecting a process comprises determining an appropriate time to receive information from [[a]] the performance transmitter.

8. (Canceled)

9. (Previously Presented) The method of claim 1, wherein generating the pseudo-live performance comprises:

- retrieving the other information;
- decoding one or more commands of the other information; and

performing one or more tasks instructed by the commands.

10. (Original) The method of claim 9, wherein the one or more commands includes one or more of programming commands that execute a software program, housekeeping commands that load, delete, change or overlay stored information, and performance commands that reproduce stored information from one or more specified locations of a storage device.

11 - 13. (Canceled)

14. (Currently Amended) A pseudo-live performance generator, comprising a controller that:

detects a need for performance information by determining that stored performance information is out-of-date;

selects a process for obtaining the needed performance information;

executes the process; and

generates the pseudo-live performance by mixing information corresponding to one or more portions of the needed performance information with other information, wherein

when the controller selects the process for obtaining the needed performance information, the controller determines whether a performance transmitter is of a type that is capable of receiving and responding to an information request, or is of a type that is not capable of receiving and responding to an information request.

15. (Canceled)

16. (Currently Amended) The pseudo-live performance generator of claim 14, further comprising:

accessing a profile, wherein the profile indicates one or more of:

a type of information desired by an end-user;

a schedule of an end-user; and

scheduled times at which information is transmitted by ~~[[a]]~~ the performance transmitter.

17. (Canceled)

18. (Currently Amended) The pseudo-live performance generator of claim ~~[[17]]~~ 14, wherein the controller performs one or more of:

transmitting a query signal to the performance transmitter; ~~and~~

passively receiving a signal from the performance transmitter; and

accessing a profile.

19. (Currently Amended) The pseudo-live performance generator of claim ~~[[17]]~~ 14, further comprising:

a request generator that generates an information request, wherein the controller transmits the request to the performance transmitter via the network.

20. (Currently Amended) The pseudo-live performance generator of claim 14, wherein the controller determines an appropriate time to receive information from ~~[[a]]~~ the performance transmitter.

21. (Canceled)

22. (Previously Presented) The pseudo-live performance generator of claim 14, wherein the controller:

retrieves the other information;

decodes one or more commands of the other information; and

performs one or more tasks instructed by the commands.

23. (Original) The pseudo-live performance generator of claim 22, wherein the one or more commands includes one or more of programming commands that execute a software program, housekeeping commands that load, delete, change or overlay stored information, and performance commands that reproduce stored information from one or more specified locations of a storage device.

24. (Canceled)

25. (Currently Amended) The method of claim 1, wherein determining that the stored program information is out-of-date comprises:

transmitting a query to determine a time of a latest update of the stored performance information;

receiving the time of latest update of the stored performance information in response to the transmitting of the query;

accessing a time-stamp of the stored performance information; and

determining whether the time-stamp of the stored performance information matches the time of the latest update of the stored performance information.

26. (Previously Presented) The pseudo-live performance generator of claim 14, wherein the controller determining that the stored performance information is out-of-date comprises:

accessing a time of a latest update of the stored performance information;

accessing a time-stamp of the stored performance information; and

determining whether the time-stamp of the stored performance information matches the time of the latest update of the stored performance information.

27. (Previously Presented) The method of claim 1, wherein the performance information includes multimedia performance information.

28. (Previously Presented) The pseudo-live performance generator of claim 14, wherein the performance information includes multimedia performance information.

REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested. Claims 1, 3, 5-7, 9, 10, 14, 16, 18-20, 22, 23 and 25-28 remain pending, claims 1, 3, 5-7, 14, 16, 18-20 and 25 having been amended, and claims 4 and 17 having been newly canceled without prejudice or disclaimer.

Rejection of Claim 25 under 35 U.S.C. 112, Second Paragraph

On page 2 of the Final Office Action of December 2, 2005, the Examiner rejected claim 25 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner indicated that the limitation “the stored program information” in line 1 of claim 25 has insufficient antecedent basis. Applicant amended the above-mentioned limitation to “stored program information”. Applicant submits that the amended claim resolves the insufficient antecedent basis problem. Therefore, Applicant respectfully requests that the rejection of claim 25 be withdrawn.

Rejection of Claims 1, 3-7, 9, 10, 14, 16-20, 22 and 23

On page 3 of the Office Action, the Examiner rejected claims 1, 3-7, 9, 10, 14, 16-20, 22 and 23 under Section 103(a) as allegedly being unpatentable over U.S. Patent No. 6,684,249 to Frerichs et al. (“Frerichs”) in view of U.S. Patent No. 6,269,394 to Kenner et al. (“Kenner”). Applicant submits that amended claims 1 and 14 obviate the rejection. The amendments to claims 3 and 7 were made to conform these claims to amended claim 1. The amendments to claims 5 and 6 were made because these claims depended from canceled claim 4. The amendments to claims 16 and 20 were made to conform these claims to amended claim 14. The amendments to claims 18 and 19 were made because these claims

depended from canceled claim 17. Applicant submits that the cancellation of claims 4 and 17 make the rejection of these claims moot. Therefore, Applicant respectfully requests that the rejection of claims 4 and 17 be withdrawn.

Amended claim 1 is directed to a method for receiving performance information over a network for generating a pseudo-live performance. The method includes, among other things, selecting a process for obtaining needed performance information, wherein selecting a process for obtaining the needed performance information further includes determining whether a performance transmitter is of a type that is capable of receiving and responding to an information request, or is of a type that is not capable of receiving and responding to an information request.

Frerichs discloses a method for inserting advertisements into streaming audio for transmission over a computer network (see Abstract). However, Frerichs fails to disclose or suggest, selecting a process for obtaining needed performance information, wherein selecting a process for obtaining the needed performance information further includes determining whether a performance transmitter is of a type that is capable of receiving and responding to an information request, or is of a type that is not capable of receiving and responding to an information request, as required by amended independent claim 1 and dependent claims 3, 5-7, 9, 10, 25 and 27. Further, Applicant submits that Kenner fails to satisfy the deficiencies of Frerichs. Therefore, Applicant submits that claims 1, 3, 5-7, 9, 10, 25 and 27 are patentable over Frerichs and Kenner and respectfully request that the rejection be withdrawn.

Applicant submits that amended independent claim 14 is similar to amended independent claim 1 and is patentable over Frerichs in view of Kenner for reasons similar to those provided with respect to claim 1. Therefore, Applicant respectfully requests that the rejection of claim 14 and dependent claims 16, 18-20, 22, 23, 26 and 28 be withdrawn.

CONCLUSION

Having addressed all rejections and objections, Applicant respectfully submits that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

Date: February 1, 2006

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